



October 5, 2011

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; High-Cost Universal Service Support, WC Docket No. 05-337; Developing a Unified Intercarrier Compensation Regime, CC Docket 01-92; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109

Dear Ms. Dortch:

The National Exchange Carrier Association, the National Telecommunications Cooperative Association, the Organization for the Promotion and Advancement of Small Telecommunications Companies, and the Western Telecommunications Alliance (collectively, the “Rural Associations”) hereby submit a working discussion draft of proposed rules to implement the universal service fund (“USF”) and intercarrier compensation (“ICC”) components of the reform plan set forth by the Rural Associations in their April 18, 2011 comments in the above-captioned proceedings, as modified by the Industry Consensus Letter filed with the Federal Communications Commission (the “Commission”) on July 29, 2011 (the “RLEC Plan”). These draft rules reflect USF and ICC provisions intended to be applicable to rate-of-return-regulated carriers pursuant to the RLEC Plan, and do not address implementation specifically of the ABC Plan submitted by USTelecom and several carriers.

Pursuant to Section 1.1206 of the Commission’s rules, a copy of this letter is being filed via ECFS with your office. If you have any questions, please do not hesitate to contact me at (703) 351-2016 or mromano@ntca.org.

Sincerely,

/s/ Michael R. Romano
Michael R. Romano

Senior Vice President - Policy

Enclosure

Rule Changes
for
RLEC USF & ICC Reform

Discussion Draft – 10/5/11

TABLE OF CONTENTS

Part 32 – Uniform System of Accounts for Telecommunications Companies 1

Part 36 - Jurisdictional Separations 2

Part 51 - Interconnection..... 14

Part 54 - Universal Service 17

Part 61 - Tariffs..... 25

Part 64 – Miscellaneous Rules Relating to Common Carriers 28

Part 69 – Access Charges 32

Part 32 – Uniform System of Accounts for Telecommunications Companies

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Subpart E – Instructions for Expense Accounts

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§ 32.6540 Access expense.

(a) This account shall include amounts paid by interexchange carriers or other exchange carriers to another exchange carrier or network provider for the provision of carrier's carrier access. This account shall also include expenses related to facilities and bandwidth capacity associated with connecting the Broadband Access Service Connection Point to the Internet backbone (Middle Mile expense).

(b) Subsidiary record categories shall be maintained in order that the entity may separately report interstate and intrastate carrier's carrier expense. Such subsidiary record categories shall be reported as required by Part 43 of this Commission's Rules and Regulations.

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Part 36 - Jurisdictional Separations

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Subpart B – Telecommunications Property

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CENTRAL OFFICE EQUIPMENT

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§ 36.126 Circuit equipment – Category 4.

(a) For the purpose of this section, the term "Circuit Equipment" encompasses the Radio Systems and Circuit Equipment contained in Accounts 2230 through 2232 respectively. It includes central office equipment, other than switching equipment and automatic message recording equipment, which is used to derive communications transmission channels or which is used for the amplification, modulation, regeneration, testing, balancing or control of signals transmitted over communications transmission channels. Examples of circuit equipment in general use include:

- (1) Carrier telephone and telegraph system terminals.
- (2) Telephone and telegraph repeaters, termination sets, impedance compensators, pulse link repeaters, echo suppressors and other intermediate transmission amplification and balancing equipment except that included in switchboards.
- (3) Radio transmitters, receivers, repeaters and other radio central office equipment except message switching equipment associated with radio systems.
- (4) Composite ringers, line signaling and switching pad circuits.
- (5) Concentration equipment.
- (6) Composite sets and repeating coils.
- (7) Program transmission amplifiers, monitoring devices and volume indicators.
- (8) Testboards, test desks, repair desks and patch bays, including those provided for test and control, and for telegraph and transmission testing.

(b) For apportionment among the operations, the cost of circuit equipment is assigned to the following subsidiary categories:

- (1) *Exchange Circuit Equipment - Category 4.1.*
 - (i) Wideband Exchange Line Circuit Equipment - Category 4.11.
 - (ii) Exchange Trunk Circuit Equipment (Wideband and Non-Wideband) - Category 4.12.
 - (iii) Exchange Line Circuit Equipment Excluding Wideband - Category 4.13.

Part 36
Discussion Draft - 10/5/11

(2) Interexchange Circuit Equipment - Category 4.2.

(i) Interexchange Circuit Equipment Furnished to Another Company for Interstate Use - Category 4.21.

(ii) Interexchange Circuit Equipment Used for Wideband Services including Satellite and Earth Station Equipment used for Wideband Service - Category 4.22.

(iii) All Other Interexchange Circuit Equipment - Category 4.23.

(3) Host/Remote Message Circuit Equipment - Category 4.3

(4) Middle Mile Circuit Equipment – Category 4.4

~~(4)~~ (5) In addition, for the purpose of identifying and separating property associated with special services, circuit equipment included in Categories 4.12 (other than wideband equipment) 4.13 and 4.23 is identified as either basic circuit equipment, *i.e.*, equipment that performs functions necessary to provide and operate channels suitable for voice transmission (telephone grade channels), or special circuit equipment, *i.e.*, equipment that is peculiar to special service circuits. Carrier telephone terminals and carrier telephone repeaters are examples of basic circuit equipment in general use, while audio program transmission amplifiers, bridges, monitoring devices and volume indicators, telegraph carrier terminals and telegraph repeaters are examples of special circuit equipment in general use. Cost of exchange circuit equipment included in Categories 4.12 and 4.13 and the interexchange circuit equipment in Categories 4.21, 4.22 and 4.23 are segregated between basic circuit equipment and special circuit equipment only at those locations where amounts of interexchange and exchange special circuit equipment are significant. Where such segregation is not made, the total costs in these categories are classified as basic circuit equipment.

~~(5)~~ (6) Effective July 1, 2001, through June 30, 2011, study areas subject to price cap regulation, pursuant to § 61.41, shall assign the average balances of Accounts 2230 through 2232 to the categories/subcategories as specified in §§ 36.126(b)(1) through (b)(4) based on the relative percentage assignment of the average balances of Accounts 2230 through 2232 costs to these categories/subcategories during the twelve month period ending December 31, 2000.

* * *

(g) Apportionment of Middle Mile Circuit Equipment Among the Operations.

(1) Middle Mile Circuit Equipment – Category 4.4. This category includes circuit equipment associated with connecting the Broadband Access Service Connection Point to the Internet backbone.

(i) Middle Mile Circuit Equipment shall be directly assigned to the Interstate Jurisdiction and allocated to private line services.

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CABLE AND WIRE FACILITIES

Part 36
Discussion Draft - 10/5/11

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§ 36.154 Exchange Line Cable and Wire Facilities (C&WF) – Category 1 – apportionment procedures.

(a) *Exchange Line C&WF-Category 1.* The first step in apportioning the cost of exchange line cable and wire facilities among the operations is the determination of an average cost per working loop. This average cost per working loop is determined by dividing the total cost of exchange line cable and wire Category 1 in the study area by the sum of the working loops described in subcategories listed below. The subcategories are:

Subcategory 1.1 - State Private Lines and State WATS Lines. This subcategory shall include all private lines and WATS lines carrying exclusively state traffic as well as private lines and WATS lines carrying both state and interstate traffic if the interstate traffic on the line involved constitutes ten percent or less of the total traffic on the line.

Subcategory 1.2 - Interstate private lines and interstate WATS lines. This subcategory shall include all private lines and WATS lines that carry exclusively interstate traffic as well as private lines and WATS lines carrying both state and interstate traffic if the interstate traffic on the line involved constitutes more than ten percent of the total traffic on the line.

Subcategory 1.3 - Subscriber or common lines that are jointly used for local exchange service and exchange access for state and interstate interexchange services.

(b) The costs assigned to subcategories 1.1 and 1.2 shall be directly assigned to the appropriate jurisdiction.

(c) Effective January 1, 1986, 25 percent of the costs assigned to subcategory 1.3 shall be allocated to the interstate jurisdiction.

(d)-(f) [Reserved]

(g) Effective July 1, 2001, through June 30, 2012, all study areas shall apportion Subcategory 1.3 Exchange Line C&WF among the jurisdictions as specified in § 36.154(c). Direct assignment of subcategory Categories 1.1 and 1.2 Exchange Line C&WF to the jurisdictions shall be updated annually as specified in § 36.154(b).

(h) Additional Interstate Assignment. Effective July 1, 2012 and in each calendar year thereafter, rate of return study areas shall increase the apportionment of Subcategory 1.3 Exchange Line C&WF investment to the interstate jurisdiction based on the Broadband Take Rate. The Broadband Take Rate is the ratio of study area Broadband Lines in service to total broadband and common lines in service. The Additional Interstate Assignment attributable to the Broadband Take Rate is equal to the excess of the Broadband Take Rate over 25 percent; *provided, however*, that where the Broadband Take Rate exceeds 50 percent, the portion of the Broadband Take Rate over 50 percent shall be reduced by one-half, such that the Broadband Take Rate for purposes of calculating the Additional Interstate Assignment shall not exceed 75 percent.

(i) The Additional Interstate Assignment produced by subsection (h) shall be phased-in as follows:

Part 36
Discussion Draft - 10/5/11

(1) 0.0415 for the period July 1, 2012 through December 31, 2012;

(2) 0.166 in 2013;

(3) 0.25 in 2014;

(4) 0.333 in 2015;

(5) 0.416 in 2016;

(6) 0.50 in 2017;

(7) 0.583 in 2018;

(8) 0.667 in 2019;

(9) 0.75 in 2020;

(10) 0.833 in 2021;

(11) 0.916 in 2022;

(12) 1.000 in 2023 and subsequent years.

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§ 36.158 Middle Mile Cable and Wire Facilities (C&WF) – Category 5 – apportionment procedures.

- (a) Middle Mile C&WF – Category 5. The cost of Middle Mile facilities and services used for connecting the Broadband Access Service connection Point to the Internet backbone.

(1) The cost of C&WF applicable to this category shall be directly assigned to the Interstate jurisdiction and allocated to private line services

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Subpart D – Operating Expenses and Taxes

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§36.354 Access expense--Account 6540.

- (a) This account includes access charges paid to exchange carriers for exchange access service. These are directly assigned to the appropriate jurisdiction based on subsidiary record categories or on analysis and study.

Part 36
Discussion Draft - 10/5/11

- (1) Beginning July 1, 2012, Middle Mile access expense shall be directly assigned to the Interstate jurisdiction and allocated to private line services.

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§36.392 General and administrative--Account 6720.

- (a) These expenses are divided into two categories:

(1) Extended Area Services (EAS).

(2) All other.

- (i) Beginning July 1, 2012, for purposes of computing interstate cost assignments, General and Administrative Expenses shall be limited to the lesser of:

(A) The actual average monthly per-loop General and Administrative Expenses;
or

(B) A monthly per-loop amount computed according to paragraphs (a)(2)(i)(B)(1), (a)(2)(i)(B)(2), (a)(2)(i)(B)(3) and (a)(2)(i)(B)(4) of this section, using study period average loops.

(1) For study areas with 6,000 or fewer working loops the amount per working loop shall be $\$33.30853 - (.00246 \times \text{the number of working loops})$, or, $\$50,000 \div \text{the number of working loops}$, whichever is greater;

(2) For study areas with more than 6,000 but fewer than 18,006 working loops, the monthly amount per working loop shall be $\$3.83195 + (88,429.20 \div \text{the number of working loops})$; and

(3) For study areas with 18,006 or more working loops, the amount per working loop shall be $\$8.74472$.

(4) The monthly per-loop amount computed according to paragraphs (a)(2)(i)(B)(1) through, (a)(2)(i)(B)(3) of this section shall be adjusted each year to reflect the annual percentage change in the United States Department of Commerce's Gross Domestic Product--Chained Price Index (GDP-CPI) from January 1, 2002 until the current year.

(5) If a study area's monthly per-loop General and Administrative Expenses require limitation, the per-loop, per-month amount shall be multiplied by 12 months and then by total loops for use in determining maximum expenses permissible for interstate assignment.

- (ii) General and Administrative Expenses not assigned to interstate pursuant to §36.392(a)(i)(A or B) shall be assigned to the intrastate jurisdiction.

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Part 36
Discussion Draft - 10/5/11

Subpart F – Universal Service Fund

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§ 36.606 Limitations on Loop Plant Capital Expenditures Eligible for Support

(a) For purposes of determining support limitations on loop plant capital expenditures for non-price cap carriers, the following definitions shall apply:

- (1) *Total Loop Investment* (TLI) is the current gross balance of loop investment adjusted for inflation using the Department of Commerce Gross Domestic Product Chain-type Price Index (GDP-CPI).
- (2) *Total Allowed Loop Expenditure* (TALE) is the amount of future loop plant that would qualify for support.
- (3) *Annual Allowed Loop Expenditure* (AALE) is the portion of the TALE eligible for support in the investment year.
- (4) *Excess Loop Expenditure* (ELE) is the amount of loop plant investment in a given year that exceeds the AALE. The ELE may be carried forward to future years and be included in the future AALE to the extent permitted within the TALE.
- (5) *Loop Depreciation Factor* (LDF) is the ratio of the total loop accumulated depreciation associated with the total loop investment. This calculation uses the depreciation and investment amounts of the Data Year.
- (6) *Data Year* is defined as the year prior to the year the AALE is made.

(b) Beginning January 1, 2012, Telecommunications Plant In Service (TPIS) investment in unseparated (i.e. state and interstate) gross plant investment in Exchange Line Circuit Equipment Excluding Wideband Category 4.13, Wideband Exchange Line Circuit Equipment Category 4.11, Wideband and Exchange Trunk Cable and Wire Facilities (C&WF) Category 2, and Exchange Line Cable and Wire Facilities (C&WF) Subcategory 1.3 allowed for inclusion in data submissions and support calculations prescribed under this section and in conformity with §54.1104 is limited to the AALE plus accumulated ELE, if any, as long as the amount does not exceed the TALE.

(c) A company will determine the limitations on loop plant capital expenditures for inclusion in loop costs by application of the rules in this section to the loop portion of Account 2230, Central Office Transmission, and the loop portion of Account 2410, Cable and Wire facilities. The limitations on loop plant capital expenditures will be applied to Exchange Line Circuit Equipment Excluding Wideband Category 4.13, Wideband Exchange Line Circuit Equipment Category 4.11, Wideband and Exchange Trunk Cable and Wire Facilities (C&WF) Category 2, and Exchange Line Cable and Wire Facilities (C&WF) Subcategory 1.3 through application of the categorization and subcategorization procedures prescribed in this section.

(d) For purposes of this section, the term “capital expenditures” equals the cost of loop plant booked to Account 2001, TPIS, including Account 2230, Central Office Transmission, and Account 2410, Cable and Wire Facilities during the Data Year. Such costs will be determined consistent with the requirements of §32.2000. Additionally, capital expenditures as used in this section will include the amounts, if any, charged during the Data Year to Account 2681, Capital Leases associated with accounts 2230 or 2410.

(e) For inclusion in AALE, capital expenditures must be for the addition to loop equipment and facilities as referenced in § 36.606(c) that support transmission of broadband between the

Part 36
Discussion Draft - 10/5/11

carrier's central office and end user customer premises or for equipment in the carrier's central office that supports broadband connections for end user customers. Certifications by states pursuant to § 54.314 will include determinations by the state that capital expenditures included in AALE comply with these requirements.

(f) AALE is equal to the TALE multiplied by the AALE Factor, plus any adjustments, if any, pursuant to § 36.606(i).

(1) The AALE Factor is arrived at by applying the following formula:

$$\text{AALE Factor} = (0.15 * \text{Loop Depreciation Factor} + 0.05)$$

(2) The TALE is the TLI multiplied by the LDF. TLI is calculated by taking the Data Year year-end balances of the categories and subcategories referenced in § 36.606(c) and adjusting these balances by applying the inflation factor based on Vintages where possible; otherwise the calculated year the loop plant was put in service. The inflation factor to be used will be based on the Department of Commerce GDP-CPI.

(3) Carriers subject to this section will recalculate AALE for each Data Year based on the procedures established in this section. In the event capital expenditures for loop plant are below AALE for a Data Year, there will be no carry forward to future years of unused AALE. The recalculation of AALE for each Data Year will reflect the revised AALE, LDF, TLI, and TALE for the preceding year-end. Year-end calculations will reflect plant additions, plant retirements and depreciation expense during the preceding year. This method will allow for increases in AALE from year to year in the event a low level of capital expenditures is made during a year.

(g) A carrier subject to this section will maintain separate records of accumulated ELE for accounts referenced in § 36.606 (c) for the assets in addition to the corresponding depreciation accounts. ELE for a year, for an account, are equal to capital expenditures for that account in excess of AALE for the year, if any. ELE for the Data Year for each account are added to an accumulated ELE account. In the event a carrier makes capital expenditures for an account at a level below AALE for the account, the carrier may reduce accumulated ELE effective the Data Year by an amount up to, but not in excess of, the amount by which AALE for the Data year exceeds capital expenditures for the account during the same year.

(h) Carriers subject to this section will follow the requirements for depreciation accounting and computation of depreciation rates prescribed at § 32.2000(g) except as otherwise required by this section.

(i) A carrier subject to this section may make adjustments to the AALE for any given year for loop capital expenditures associated with any of the following: 1) areas where there are currently no existing wireline local loop facilities in the support study area, 2) areas where grants funds are used, 3) areas covered by a loan that was in place by January 1, 2012, and 4) projects where carrier, prior to January 1, 2012, had awarded a contract to vendor for construction. A carrier will add the applicable adjustment to the amount of AALE for the year in which the additions to plant are booked to Loop Plant in Service.

(j) In addition to the AALE, a carrier subject to this section may make normal maintenance and routine upgrades to its loop investment. Carriers will be allowed to invest up to five percent (5%) of the TLI as described in § 36.606(f) per year. This annual amount shall not be factored into any limitation, cap or reduction of support listed in or as a result of § 36.606.

Part 36
Discussion Draft - 10/5/11

(k) For instances where a carrier has an AALE that is less than \$4 million, the carrier shall be allowed to increase their AALE to either \$4 million or the TALE, whichever is less.

DATA COLLECTION

§ 36.611 Submission of information to the National Exchange Carrier Association (NECA).

In order to allow determination of the study areas and wire centers that are entitled to an expense adjustment pursuant to § 36.631, each incumbent local exchange carrier (LEC) must provide the National Exchange Carrier Association (NECA) (established pursuant to part 69 of this chapter) with the information listed for each study area in which such incumbent LEC operates, with the exception of the information listed in paragraph (h) and (i) of this section, which must be provided for each study area and, if applicable, for each wire center, as defined in part 54 of this chapter, and each disaggregation zone as established pursuant to § 54.315 of this chapter. This information is to be filed with NECA by July 31st of each year. The information provided pursuant to paragraph (h) of this section must be updated pursuant to § 36.612. Rural telephone companies that acquired exchanges subsequent to May 7, 1997, and incorporated those acquired exchanges into existing study areas shall separately provide the information required by paragraphs (a) through (h) of this section for both the acquired and existing exchanges.

(a) Unseparated, *i.e.*, state and interstate, gross plant investment in Exchange Line Cable and Wire Facilities (C&WF) Subcategory 1.3 and Exchange Line Central Office (CO) Circuit Equipment Category 4.13. This amount shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

(b) Unseparated accumulated depreciation and noncurrent deferred federal income taxes, attributable to Exchange Line C&WF Subcategory 1.3 investment, and Exchange Line CO Circuit Equipment Category 4.13 investment. These amounts shall be calculated as of December 31st of the calendar year preceding each July 31st filing, and shall be stated separately.

(c) Unseparated depreciation expense attributable to Exchange Line C&WF Subcategory 1.3 investment, and Exchange Line CO Circuit Equipment Category 4.13 investment. This amount shall be the actual depreciation expense for the calendar year preceding each July 31st filing.

(d) Unseparated maintenance expense attributable to Exchange Line C&WF Subcategory 1.3 investment and Exchange Line CO Circuit Equipment Category 4.13 investment. This amount shall be the actual repair expense for the calendar year preceding each July 31st filing.

(e) Unseparated corporate operations expenses, operating taxes, and the benefits and rent proportions of operating expenses. The amount for each of these categories of expense shall be the actual amount for that expense for the calendar year preceding each July 31st filing. The amount for each category of expense listed shall be stated separately.

(f) Unseparated gross telecommunications plant investment. This amount shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

Part 36
Discussion Draft - 10/5/11

(g) Unseparated accumulated depreciation and noncurrent deferred federal income taxes attributable to local unseparated telecommunications plant investment. This amount shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

(h) For rural telephone companies, as that term is defined in § 51.5 of this chapter, the number of working loops for each study area. For non-rural telephone companies, the number of working loops for each study area and for each wire center. For universal service support purposes, working loops are defined as the number of working Exchange Line C&WF loops used jointly for exchange and message telecommunications service, including C&WF subscriber lines associated with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX service. These figures shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

(i) Rural rate of return study areas potentially eligible to receive access restructure support pursuant to §54.1002 of this Chapter shall provide the following accounting information to the Association for purposes of determining whether adjustments to access restructure support amounts based on intrastate regulated earnings levels are needed:

- (i) Total Intrastate Rate Base Per FCC Part 32, 36 and 65 Rules
- (ii) Total Intrastate Operating Revenues Per Part 32 Rules
- (iii) Total Intrastate Operating Expenses Per Part 32, 36 and 65 Rules
- (iv) Intrastate Other Operating Taxes and Other Per Part 32, 36 and 65 Rules
 - 1. Intrastate Other Operating Taxes (property, franchise, etc.)
 - 2. Intrastate AFUDC
 - 3. Intrastate Other Income Related Items
- (v) Intrastate Income Tax Items Part 32, 36 and 65 Rules
 - 1. Intrastate Fixed Charges
 - 2. Intrastate Income Tax Adjustment
- (vi) Combined Effective Tax Rate
- (vii) Additional End User Common Line Charge revenues billed or imputed pursuant to § 69.104(s) of this Chapter.

§ 36.612 Updating information submitted to the National Exchange Carrier Association.

(a) Any rural telephone company, as that term is defined in § 51.5 of this chapter, may update the information submitted to the National Exchange Carrier Association (NECA) on July 31st pursuant to §§ 36.611(a) through (h) one or more times annually on a rolling year basis according to the schedule, except that rural telephone companies in service areas where an eligible telecommunications carrier has initiated service and has reported line count data pursuant to § 54.307(c) of this chapter must update the information submitted to NECA on July 31st pursuant to § 36.611(h) according to the schedule. Every non-rural telephone company must update the information submitted to NECA on July 31st pursuant to § 36.611(h) according to the schedule.

(1) Submit data covering the last nine months of the previous calendar year and the first three months of the existing calendar year no later than September 30th of the existing year;

Part 36
Discussion Draft - 10/5/11

(2) Submit data covering the last six months of the previous calendar year and the first six months of the existing calendar year no later than December 30th of the existing year;

(3) Submit data covering the last three months of the second previous calendar year and the first nine months of the previous calendar year no later than March 30th of the existing year.

(b)-[Reserved] Updates submitted pursuant to this section shall no longer be accepted by NECA after July 1, 2012.

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**CALCULATION OF EXPENSE ADJUSTMENT – ADDITIONAL INTERSTATE EXPENSE
ALLOCATION**

§ 36.631 Expense adjustment.

(a)-(b) [Reserved]

(c) Beginning January 1, 1988, for study areas reporting 200,000 or fewer working loops pursuant to § 36.611(h), the expense adjustment (additional interstate expense allocation) is equal to the sum of paragraphs (c)(1) through (2) of this section. After January 1, 2000, the expense adjustment (additional interstate expense allocation) for non-rural telephone companies serving study areas reporting 200,000 or fewer working loops pursuant to § 36.611(h) shall be calculated pursuant to § 54.309 of this Chapter or § 54.311 of this Chapter (which relies on this part), whichever is applicable.

(1) Sixty-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 36.622(b) in excess of 115 percent of the national average for this cost but not greater than 150 percent of the national average for this cost as calculated pursuant to § 36.622(a) multiplied by the number of working loops reported in § 36.611(h) for the study area; and

(2) Seventy-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 36.622(b) in excess of 150 percent of the national average for this cost as calculated pursuant to § 36.622(a) multiplied by the number of working loops reported in § 36.611(h) for the study area.

(d) Beginning January 1, 1988, for study areas reporting more than 200,000 working loops pursuant to § 36.611(h), the expense adjustment (additional interstate expense allocation) is equal to the sum of paragraphs (d)(1) through (4) of this section. After January 1, 2000, the expense adjustment (additional interstate expense allocation) for non-rural telephone companies serving study areas reporting more than 200,000 working loops pursuant to § 36.611(h) shall be calculated pursuant to § 54.309 of this chapter or § 54.311 of this chapter (which relies on this part), whichever is applicable.

(1) Ten percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 36.622(b) in excess of 115 percent of the national average for this cost but not greater than 160 percent of the national average for this cost as calculated pursuant to § 36.622(a) multiplied by the number of working loops reported in § 36.611(h) for the study area;

Part 36
Discussion Draft - 10/5/11

- (2) Thirty percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 36.622(b) in excess of 160 percent of the national average for this cost but not greater than 200 percent of the national average for this cost as calculated pursuant to § 36.622(a) multiplied by the number of working loops reported in § 36.611(h) for the study area;
- (3) Sixty percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 36.622(b) in excess of 200 percent of the national average for this cost but not greater than 250 percent of the national average for this cost as calculated pursuant to § 36.622(a) multiplied by the number of working loops reported in § 36.611(h) for the study area; and
- (4) Seventy-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 36.622(b) in excess of 250 percent of the national average for this cost as calculated pursuant to § 36.622(a) multiplied by the number of working loops reported in § 36.611(h) for the study area.
- (e) Beginning April 1, 1989, the expense adjustment calculated pursuant to § 36.631(c) and (d) shall be adjusted each year to reflect changes in the size of the Universal Service Fund resulting from adjustments calculated pursuant to § 36.612(a) made during the previous year. If the resulting amount exceeds the previous year's fund size, the difference will be added to the amount calculated pursuant to § 36.631(c) and (d) for the following year. If the adjustments made during the previous year result in a decrease in the size of the funding requirement, the difference will be subtracted from the amount calculated pursuant to § 36.631(c) and (d) for the following year.
- (f) Subsequent to July 1, 2012, the interstate expense adjustment attributable to high cost loop support shall be adjusted pursuant to § 54.1103.

Subpart H – Access Restructure Mechanism Expense Adjustment

§ 36.801 General.

- (a) The term Access Restructure Mechanism Expense Adjustment in this subpart refers only to the intrastate access revenue requirement of rural rate of return carriers assigned to the interstate jurisdiction for recovery pursuant to § 36.801(b).
- (b) The Access Restructure Mechanism expense adjustment for each carrier will equal the amount of Access Restructure Support computed pursuant to § 54.1002 of this Chapter.
- (c) Beginning July 1, 2012, the expense adjustment calculated pursuant to this subpart H shall be added to interstate expenses and deducted from state expenses after expenses and taxes have been apportioned pursuant to subpart D of this part.

Part 36
Discussion Draft - 10/5/11

APPENDIX TO PART 36 – GLOSSARY

The descriptions of terms in this glossary are broad and have been prepared to assist in understanding the use of such terms in the separation procedures. Terms which are defined in the text of this part are not included in this glossary.

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Broadband Access Service Connection Point - the network equipment located in a telephone company serving wire center where broadband traffic from one or more telephone company serving wire centers is aggregated.

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Broadband Line – loop equipment and facilities that support transmission of voice and broadband data, or broadband data only, between the carrier's central office and end user customer premises, at a minimum downstream speed of 256 Kbps.

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Middle Mile - broadband transmission facilities and services beyond the Broadband Access Service Connection Point as well as facilities and services necessary to connect to the Internet backbone.

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Part 51 - Interconnection

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§ 51.301 Duty to negotiate.

- (a) An incumbent LEC shall negotiate in good faith the terms and conditions of agreements to fulfill the duties established by sections 251 (b) and (c) of the Act.
- (b) A requesting telecommunications carrier shall negotiate in good faith the terms and conditions of agreements described in paragraph (a) of this section.
- (c) If proven to the Commission, an appropriate state commission, or a court of competent jurisdiction, the following actions or practices, among others, violate the duty to negotiate in good faith:
- (1) Demanding that another party sign a nondisclosure agreement that precludes such party from providing information requested by the Commission, or a state commission, or in support of a request for arbitration under section 252(b)(2)(B) of the Act;
 - (2) Demanding that a requesting telecommunications carrier attest that an agreement complies with all provisions of the Act, federal regulations, or state law;
 - (3) Refusing to include in an arbitrated or negotiated agreement a provision that permits the agreement to be amended in the future to take into account changes in Commission or state rules;
 - (4) Conditioning negotiation on a requesting telecommunications carrier first obtaining state certifications;
 - (5) Intentionally misleading or coercing another party into reaching an agreement that it would not otherwise have made;
 - (6) Intentionally obstructing or delaying negotiations or resolutions of disputes;
 - (7) Refusing throughout the negotiation process to designate a representative with authority to make binding representations, if such refusal significantly delays resolution of issues; ~~and~~
 - (8) Refusing to provide information necessary to reach agreement. Such refusal includes, but is not limited to:
 - (i) Refusal by an incumbent LEC to furnish information about its network that a requesting telecommunications carrier reasonably requires to identify the network elements that it needs in order to serve a particular customer; and
 - (ii) Refusal by an incumbent LEC to furnish cost data that would be relevant to setting rates if the parties were in arbitration.

Part 51
Discussion Draft - 10/5/11

(9) Refusing to assist in performing traffic studies or taking reasonable steps to provide and evaluate traffic exchanged between the networks.

(d) An incumbent LEC may request interconnection from another LEC or telecommunications carrier and invoke the negotiation and arbitration procedures contained in section 252 of the Act. A LEC or telecommunications carrier receiving a request for interconnection must negotiate in good faith and must, if requested, submit to arbitration by the state commission. Once a request for interconnection is made, the interim transport and termination pricing described in § 51.715 shall apply.

* * *

§ 51.510 Rural Transport.

(a) For non-access switched calls made by the customer of a rural rate-of-return incumbent LEC to the customer of another carrier, the rural rate-of-return incumbent LEC will be responsible for transport to a non-rural terminating carrier's point of presence (POP) when it is located within the rural rate-of-return Incumbent LEC's service area. When the non-rural terminating carrier's POP is located outside the rural rate-of-return incumbent LEC's service area, the rural rate-of-return incumbent LEC's transport and provisioning obligation stops at its meet point and the non-rural terminating carrier is responsible for the remaining transport to its POP.

(b) For purposes of this section the term "carrier" includes, but is not limited to, incumbent LECs, commercial mobile radio services (CMRS) providers, Voice over Internet Protocol (VoIP) service providers, and Internet Service Providers (ISPs) using switched voice circuits for data transmission.

(c) Nothing in this section shall prohibit incumbent LECs from assessing charges through tariffs or contracts, nor shall anything herein excuse telecommunications carriers or other responsible parties from being required to pay such charges, associated with transmission of signaling data to interexchange access service customers and/or charges associated with signaling and call setup. The charges in such tariffs or contracts may be discrete charges for signaling or aggregated with other charges for either switched access local switching or switched access transport consistent with the Part 69 of this Chapter.

* * *

Subpart H – Reciprocal Compensation for Transport and Termination of Telecommunications Traffic

* * *

§ 51.703 Reciprocal compensation obligation of LECs.

(a) Each LEC shall establish reciprocal compensation arrangements for transport and termination of telecommunications traffic with any requesting telecommunications carrier.

Part 51
Discussion Draft - 10/5/11

(b) Except as otherwise provided in the Commission's rules, a LEC may not assess charges on any other telecommunications carrier for telecommunications traffic that originates on the LEC's network.

* * *

§ 51.716 Adjustments to reciprocal compensation rates.

(a) Effective July 1, 2012, a local exchange carrier whose aggregate rates for services provided pursuant to reciprocal compensation agreements exceed its aggregate rates for terminating interstate access services shall reduce its reciprocal compensation rates by one half the difference between the two rates.

(b) Effective July 1, 2013, each local exchange carrier shall reduce its aggregate reciprocal compensation rates by the remaining difference, if any, between its aggregate reciprocal compensation and aggregate terminating interstate access rates.

(c) The aggregate switched access rate for each service shall be determined by computing a weighted average of terminating switched access end office rates and terminating transport rates per study area. Such weighted average shall be determined by summing terminating end office revenues, local transport revenues, and the terminating portion of tandem switched transport revenues as applicable and dividing that sum by the number of terminating local switching minutes.

(d) The rate reductions required hereunder shall apply to all reciprocal compensation rates, whether established by negotiation or arbitration, unless the agreement governing such rates does not contain a change of law provision.

(e) There will be no termination liability or other contract penalties related to these rate changes.

* * *

Part 54 - Universal Service

Subpart A – General Information

* * *

§ 54.702 Administrator's functions and responsibilities.

(a) The Administrator, and the divisions therein, shall be responsible for administering the schools and libraries support mechanism, the rural health care support mechanism, the high cost support mechanism, the low income support mechanism, the interstate access universal service support mechanism described in subpart J of this part of this part, and the interstate common line support mechanism described in subpart K of this part.

(b) The Administrator shall be responsible for billing contributors, collecting contributions to the universal service support mechanisms, and disbursing universal service support funds.

(c) The Administrator may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress. Where the Act or the Commission's rules are unclear, or do not address a particular situation, the Administrator shall seek guidance from the Commission.

* * *

(h) The Administrator shall report quarterly to the Commission on the disbursement of universal service support program funds. The Administrator shall keep separate accounts for the amounts of money collected and disbursed for eligible schools and libraries, rural health care providers, low-income consumers, interstate access universal service support, interstate common line support, and high-cost and insular areas. The Administrator's quarterly report for 3rd quarter, filed on or about May 2 annually, shall contain projected annual funding requirements for Access Restructure Support and the Connect America Fund, including all high cost funding components, for Price Cap and Rate of Return carriers and the Mobility Fund.

* * *

§ 54.715 Administrative expenses of the Administrator.

* * *

(c) The Administrator shall submit to the Commission projected quarterly budgets at least sixty (60) days prior to the start of every quarter. The Commission must approve the projected quarterly budgets before the Administrator disburses funds under the federal universal service support mechanisms. The administrative expenses incurred by the Administrator in connection with the schools and libraries support mechanism, the rural health care support mechanism, the high cost support mechanism, the low income support mechanism, the interstate access universal service support mechanism, ~~and the interstate common line support mechanism,~~ the Connect America Fund, local switching support and the Access Restructure Support mechanism shall be deducted from the annual funding of each respective support mechanism. The expenses deducted from the annual funding for each support mechanism also shall include the Administrator's joint and common costs allocated to each support mechanism pursuant to the cost allocation manual filed by the Administrator under § 64.903 of this chapter.

Subpart K – Interstate Common Line Support Mechanism for Rate of Return Carriers

§ 54.901 Calculation of Interstate Common Line Support.

(a) Interstate Common Line Support available to a rate-of-return carrier shall equal the Common Line Revenue Requirement per Study Area as calculated in accordance with part 69 of this chapter minus:

- (1) The study area revenues obtained from end user common line charges at their allowable maximum as determined by §§ 69.104(n) and 69.104(o) of this chapter;
- (2) The carrier common line charge revenues to be phased out pursuant to § 69.105 of this chapter;
- (3) The special access surcharge pursuant to § 69.114 of this chapter;
- (4) The line port costs in excess of basic analog service pursuant to § 69.130 of this chapter; and
- (5) Any Long Term Support for which the carrier is eligible or, if the carrier ceased participation in the NECA common line pool after October 11, 2001, any Long Term Support for which the carrier would have been eligible if it had not ceased its participation in the pool.

(b) The per-line Interstate Common Line Support available to a competitive eligible telecommunications carrier serving lines in a study area served by a rate-of-return carrier shall be calculated by the Administrator as follows:

- (1) If the rate-of-return carrier has disaggregated the support it receives in the study area pursuant to § 54.315, the Administrator shall calculate the amount of Interstate Common Line support targeted to each disaggregation zone by the rate-of-return carrier (targeted Interstate Common Line Support). If the rate-of-return carrier has chosen not to disaggregate its support for a study area pursuant to § 54.315, then the entirety of its Interstate Common Line Support for the study area shall be considered targeted Interstate Common Line Support for purposes of performing the calculations in this section.
- (2) In each disaggregation zone or undisaggregated study area, the Administrator shall calculate the Average Interstate Common Line Support by dividing the rate-of-return carrier's targeted Interstate Common Line Support by its total lines served.
- (3) The Administrator shall then calculate the Interstate Common Line Support available to the competitive eligible telecommunications carrier for each line it serves for each customer class in a disaggregation zone or undisaggregated study area by the following formula:
 - (i) If the Average Interstate Common Line Support is greater than \$2.70 multiplied by the number of residential and single-line business lines served by the rate-of-return carrier in the disaggregation zone or undisaggregated study area, then:

Part 54
Discussion Draft - 10/5/11

(A) Interstate Common Line Support per Multi-Line Business Line = (Average Interstate Common Line Support - \$2.70 x residential and single-line business lines served by the rate-of-return carrier) ÷ (total lines served by the rate-of-return carrier); and

(B) Interstate Common Line Support per Residential and Single-Line Business Line = Interstate Common Line Support per Multi-Line Business Line + \$2.70.

(ii) If the Average Interstate Common Line Support is less than or equal to \$2.70 multiplied by residential and single-line business lines served by the rate-of-return carrier in the disaggregation zone or undisaggregated study area, but greater than \$0, then:

(A) Interstate Common Line Support per Multi-Line Business Line = \$0; and

(B) Interstate Common Line Support per Residential and Single-Line Business Line = Average Interstate Common Line Support ÷ residential and single line business lines served by the rate-of-return carrier.

(iii) If the Average Interstate Common Line Support is equal to \$0, then the competitive eligible telecommunications carrier shall receive no Interstate Common Line Support for lines served in that disaggregation zone or undisaggregated study area.

(b) Beginning July 1, 2012, Interstate Common Line Support shall be adjusted pursuant to § 54.1103(b) of this Part.

Subpart L: Access Restructure Support

§ 54.1001 Definitions.

(a) For purposes of determining Access Restructure Support for non-price cap ILECs, the following definitions shall apply:

(1) The Interstate Switched Access Revenue Shortfall shall equal the difference between revenues billed by the carrier for interstate Local Switching, Information, Entrance Facilities, Tandem Switched Transport Tandem Charge, and Direct-Trunked Transport services as well as other related services provided under tariffs filed pursuant to Part 69 of this Chapter and interstate revenue requirements calculated in accordance with Part 69 of this Chapter for the same elements reduced by Local Switching Support.

(2) The Intrastate Terminating Switched Access Revenue Shortfall shall equal:

(i) the difference between revenues billed by a carrier for intrastate terminating switched access services comparable to the interstate services described in (a)(1) above plus net reciprocal compensation revenues and an amount equal to the carrier's revenues for such services during the period January 1, 201X through December 31, 201X adjusted each year by the percent change in the carrier's

Part 54
Discussion Draft - 10/5/11

interstate revenue requirements calculated in accordance with Part 69 of this chapter for the same elements;

(ii) as used in (2) (i) above, net reciprocal compensation revenues shall be the net difference between reciprocal compensation amounts received by the carrier from other carriers or service providers and amounts paid by the carrier to other carriers or service providers pursuant to agreements established under Part 51 of this Chapter.

(3) *Additional End User Common Line Revenues* shall include revenues associated with the Additional Common Line Charges billed or imputed pursuant to section 69.104(s) of this Chapter.

§ 54.1002 Calculation of Access Restructure Support

(a) Access Restructure Support available in a given year to a non-price cap incumbent local exchange carrier that does not participate in association tariffs filed pursuant to Subpart G, Part 69 of this Chapter shall equal the sum of the carrier's annual Interstate Switched Access Revenue Shortfall and its annual Intrastate Terminating Switched Access Revenue Shortfall, less its Additional End User Common Line Revenues for the year.

(1) *Application of Additional End User Common Line Revenues.* In adjusting revenue shortfalls to account for Additional End User Common Line Revenues, the Administrator shall first apply such revenues to offset the carrier's Intrastate Terminating Switched Access Revenue Shortfall. In the event application of Additional End User Common Line Revenues causes the Intrastate Terminating Switched Access Revenue Shortfall to reach zero, the excess, if any shall be applied to the Interstate Switched Access Revenue Shortfall.

(2) *Intrastate Regulated Earnings Test.* In determining a carrier's Intrastate Terminating Switched Access Revenue Shortfall the Administrator shall, after application of the End User Common Line revenue in (1) above, further reduce the intrastate restructure support attributable to the carrier by the amount, if any, that its earnings for intrastate regulated services exceed the authorized interstate rate of return, as determined by comparing its regulated intrastate revenues to its regulated intrastate revenue requirement calculated pursuant to procedures set forth in Parts 32, 36 and 65 of this Chapter.

(b) Access Restructure Support available in a given year to non-price cap ILECs participating in association tariffs pursuant to subpart G, Part 69 of this Chapter shall be computed as specified in subsection (a) above, but at the aggregate pool level.

New Subpart M – Connect America Fund for Rural Rate of Return Carriers

§ 54.1100 Terms and Definitions

(a) For purposes of determining Connect America Fund (CAF) support for rural rate of return carriers, the following definitions shall apply:

Part 54
Discussion Draft - 10/5/11

- (1) Broadband Access Service Connection Point – the network equipment located in a telephone company serving wire center where broadband traffic from one or more telephone company service wire centers is aggregated.
- (2) Broadband Line- loop equipment and facilities that support transmission of voice and broadband data, or broadband data only, between the carrier's central office and end user customer premises, at a minimum downstream speed of 256 Kbps.
- (3) Broadband Take Rate – a percentage representing the extent to which a telephone company's customers adopt broadband services. For purposes of computing CAF support, a telephone company's Broadband Take Rate equals its total working Broadband Lines divided by its total working access lines (including working Broadband Lines).
- (4) Middle Mile - broadband transmission facilities and services beyond the Broadband Access Service Connection Point as well as facilities and services necessary to connect to the Internet backbone.
- (5) Second Mile - broadband transmission facilities between the telephone company end office and the Broadband Access Service Connection Point.
- (6) Rural Broadband Benchmark - for purposes of computing CAF support for a rate of return carrier, the Rural Broadband Benchmark includes a fixed per-line amount that applies to all study areas and a variable study area-specific amount, as more fully defined below.
- (7) Rural Broadband Network Transmission Costs – costs associated with providing Broadband Lines, Second Mile and Middle Mile transmission services on a regulated, common carriage basis, as more fully defined below.

§ 54.1101 Connect America Fund Support for Rural Rate of Return Carriers

- (a) Beginning July 1, 2012, rural rate of return carriers designated as eligible telecommunications carriers under subpart B of this Part shall be eligible to receive Connect America Fund (CAF) support as described in this subpart.
- (b) CAF Support for a rural rate of return carrier is equal to the sum of the Rural Broadband Network Transmission Support component calculated pursuant to § 54.1102 below and adjustments to High Cost Loop Support, Interstate Common Line Support and Local Switching Support as calculated pursuant to § 54.1103 below.

§ 54.1102 Rural Broadband Network Transmission Support Component

- (a) A rural rate of return telephone company's annual Rural Broadband Network Transmission Component support amount shall equal its Rural Broadband Network Transmission Costs minus the result of multiplying the Rural Broadband Benchmark by end of year study area working Broadband Lines times 12 months.
- (b) Rural Broadband Network Transmission Costs for a rural rate of return telephone company shall equal the sum of its interstate-assigned common line costs as defined in Part 69 subpart F of this Chapter; its Additional Interstate Assignment determined pursuant to § 36.154(h) of this Chapter; its Middle Mile Broadband Costs; and its Second Mile Costs.
 - (1) For purposes of this computation Middle Mile Broadband Costs include the fully-distributed costs of providing regulated transmission services between the Broadband

Part 54
Discussion Draft - 10/5/11

Access Service Connection Point and the Internet backbone assigned to the Middle Mile Special Access subelement defined in § 69.114 (a)(ii) of this Chapter.

- (2) For purposes of this computation Second Mile Costs include the fully-distributed costs of providing regulated transmission services between the telephone company end office and the Broadband Access Service Connection Point assigned to the Second Mile Special Access subelement defined in § 69.114 (a)(ii) of this Chapter.
- (c) The Rural Broadband Benchmark equals the sum of a fixed component applicable to all rural rate of return study areas as calculated in subsection (1) below and a variable, study area-specific component as calculated in subsection (2) below.

(1) Fixed Component

- (i) For the period July 1, 2012 through December 31, 2012 the fixed component of the Rural Broadband Benchmark shall be \$19.25.
- (ii) For 2013 the fixed component of the Rural Broadband Benchmark shall be \$20.00.
- (iii) For 2014 the fixed component of the Rural Broadband Benchmark shall be \$20.75
- (iv) For 2015 the fixed component of the Rural Broadband Benchmark shall be \$21.50.
- (v) For 2016 the fixed component of the Rural Broadband Benchmark shall be \$22.25.
- (vi) For 2017 the fixed component of the Rural Broadband Benchmark shall be \$23.00.
- (vii) For 2018 the fixed component of the Rural Broadband Benchmark shall be \$23.75.
- (viii) For 2019, the fixed component of the Rural Broadband Benchmark shall be \$24.50.
- (ix) For 2020, the fixed component of the Rural Broadband Benchmark shall be \$25.25.
- (x) For 2021, the fixed component of the Rural Broadband Benchmark shall be \$26.00.
- (xi) For 2022, the fixed component of the Rural Broadband Benchmark shall be \$26.75.
- (xii) For 2023 and thereafter, the fixed component of the Rural Broadband Benchmark shall be \$27.50.

(2) Variable Component

- (i) The variable component of the Rural Broadband Benchmark shall be \$6.50 for study areas having a Broadband Take Rate of 25 percent or less.

Part 54
Discussion Draft - 10/5/11

- (ii) For study areas having a Broadband Take Rate in excess of 25 but less than 50 percent, the variable component is equal to \$6.50 plus the product of the Broadband Take Rate minus 25 percent, divided by 25 percent, and multiplied by \$6.50 multiplied by the following annual transition factor:
- (1) For the period July 1, 2012 through December 31, 2012, the transition factor for the variable component of the Rural Broadband Benchmark shall be 0.0415.
 - (2) For 2013, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.166
 - (3) For 2014, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.25
 - (4) For 2015, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.333
 - (5) For 2016, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.416
 - (6) For 2017, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.5
 - (7) For 2018, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.583
 - (8) For 2019, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.66.
 - (9) For 2020, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.75
 - (10) For 2021 the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.833.
 - (11) For 2022 the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.916.
 - (12) For 2023 and thereafter, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 1.0.
- (iii) For study areas having a Broadband Take Rate of 50 percent or higher, the variable component shall be calculated as specified in subsection 54.1102(c)(2)(ii) above, except that the portion of the Broadband Take Rate over 50 percent shall be reduced by one-half, such that the Broadband Take Rate for purposes of calculating the variable component shall not exceed 75 percent.

§ 54.1103 Adjustments to Other Universal Service Support Mechanisms

- (a) High Cost Loop Support: To the extent that the sum of the existing High Cost Loop Support calculated in accordance with Part 36 Subpart F of this Chapter plus Safety Net Additive Support calculated in accordance with Part 36 Subpart F of this Chapter plus Safety Valve Support

Part 54
Discussion Draft - 10/5/11

calculated in accordance with § 54.305 of this Chapter exceeds the additional interstate assignment of loop costs calculated pursuant to § 36.154(h) of this Chapter, the study area shall be eligible to receive the difference between the sum of these three mechanisms and the additional interstate assignment of loop costs in addition to the Connect America Fund Support for which it is eligible.

(b) *Transitional Interstate Common Line Support:* Effective July 1, 2012, Interstate Common Line Support available to a rate of return carrier qualifying for Connect America Fund support shall be modified by multiplying the carrier's Interstate Common Line Revenue Requirement and its end user subscriber line charge revenue by (1- its Broadband Take Rate).

(c) The provisions of this section shall be effective as of the effective date of Connect America Fund Support pursuant to section 54.1101, and shall remain effective for so long as section 54.1101 remains in effect.

§ 54.1105 Transitional Stability Plan

[INSERT TO BE PROVIDED]

§ 54.1105 Data Reporting and True-up Procedures

(a) Each rate of return carrier shall submit to the Administrator annually on March 31st projected data necessary to calculate the carrier's prospective CAF Support for each of its study areas in the upcoming funding year. The funding year shall be July 1 of the current year through June 30 of the next year. Each rate of return carrier will be permitted to submit a correction to the projected data filed on March 31 until June 30 for the upcoming funding year. On June 30 each rate of return carrier will be permitted to submit to the Administrator an update to the projected data for the funding year ending on that date.

(b) Each rate of return carrier shall submit to the Administrator on December 31st of each year the data necessary to calculate a carrier's CAF Support for the prior calendar year. Such data shall be used by the Administrator to make adjustments to monthly CAF Support amounts in the final two quarters of the following calendar year to the extent of any differences between the carrier's CAF received based on projected data and the support for which the carrier is ultimately eligible based on its actual data during the relevant period.

Part 61 - Tariffs

Subpart C – General Rules for Nondominant Carriers

§ 61.18 Scope.

The rules in this subpart apply to all nondominant carriers.

§ 61.26 Tariffing of competitive interstate switched exchange access services.

(a) *Definitions.* For purposes of this section 61.26, the following definitions shall apply:

(1) *CLEC* shall mean a local exchange carrier that provides some or all of the interstate exchange access services used to send traffic to or from an end user and does not fall within the definition of “incumbent local exchange carrier” in 47 U.S.C. 251(h).

(2) *Competing ILEC* shall mean the incumbent local exchange carrier, as defined in 47 U.S.C. 251(h), that would provide interstate exchange access services, in whole or in part, to the extent those services were not provided by the CLEC.

(3) *Interstate switched exchange access services* shall include the functional equivalent of the ILEC interstate exchange access services typically associated with following rate elements: ~~carrier common line (originating); carrier common line (terminating);~~ local end office switching; interconnection charge; information surcharge; tandem switched transport termination (fixed); tandem switched transport facility (per mile); tandem switching.

(4) *Non-rural ILEC* shall mean an incumbent local exchange carrier that is not a *rural telephone company* under 47 U.S.C. § 153(37).

(5) The *rate* for interstate switched exchange access services shall mean the composite, per-minute rate for these services, including all applicable fixed and traffic-sensitive charges.

(6) *Rural CLEC* shall mean a CLEC that ~~does not serve (i.e., terminate traffic to or originate traffic from) any end users located within either:~~

(i) does not serve (i.e., terminate traffic to or originate traffic from) any end users located within either:

~~(a) (i)~~ Any incorporated place of 50,000 inhabitants or more, based on the most recently available population statistics of the Census Bureau or

~~(b) (ii)~~ An urbanized area, as defined by the Census Bureau.

(ii) neither originates nor terminates more than 1500 minutes of use interstate switched exchange access traffic per working loop per month.

Part 61
Discussion Draft - 10/5/11

(7) *Rural ILEC* shall mean an incumbent local exchange carrier that is a rural telephone company under 47 U.S.C. § 153(37).

(8) *Working Loop* shall have the same definition as in 47 C.F.R. § 54.307(b), and a physical connection to a customer premise shall count as a single working loop without regard to the capacity of that connection or its capability to transmit multiple simultaneous calls.

(b) Except as provided in paragraphs (c) and (d) ~~(e)~~ of this section, a CLEC shall not file a tariff for its interstate switched exchange access services that prices those services above the ~~higher of:~~ benchmark rate. The benchmark rate for a CLEC's interstate switched exchange access services will be the rate charged for similar services by the competing ILEC.

~~(1) The rate charged for such services by the competing ILEC or~~

~~(2) The lower of:~~

~~(i) The benchmark rate described in paragraph (c) of this section or~~

~~(ii) The lowest rate that the CLEC has tariffed for its interstate exchanged access services, within the six months preceding June 20, 2001.~~

~~(c) From June 20, 2001 until June 20, 2002, the benchmark rate for a CLEC's interstate switched exchange access services will be \$0.025 per minute. From June 20, 2002 until June 20, 2003, the benchmark rate for a CLEC's interstate switched exchange access services will be \$0.018 per minute. From June 20, 2003 until June 21, 2004, the benchmark rate for a CLEC's interstate switched exchange access services will be \$0.012 per minute. After June 20, 2004, the benchmark rate for CLEC's interstate switched exchange access services will be the rate charged for similar services by the competing ILEC, provided, however, that the benchmark rate for a CLEC's interstate switched exchange access services will not move to bill and keep, if at all, until June 20, 2005.~~

~~(d) Notwithstanding paragraphs (b) and (c) of this section, in the event that, after June 20, 2001, a CLEC begins serving end users in a metropolitan statistical area (MSA) where it has not previously served end users, the CLEC shall not file a tariff for its interstate exchange access services in that MSA that prices those services above the rate charged for such services by the competing ILEC.~~

(c) ~~(e)~~ *Rural exemption.* Notwithstanding paragraphs (b) ~~through (d)~~ of this section, a rural CLEC competing with a non-rural ILEC shall not file a tariff for its interstate exchange access services that prices those services above the rate prescribed in the NECA access tariff, assuming the highest rate band for local switching. In addition to ~~the rate described above,~~ the rural CLEC may assess a presubscribed interexchange carrier charge if, and only to the extent that, the competing ILEC assesses this charge ~~that NECA rate, the rural CLEC may assess a presubscribed interexchange carrier charge if, and only to the extent that, the competing ILEC assesses this charge. Any rural CLEC that files a tariff pursuant to this exemption shall, no later than the 30th day after the end of each quarter for which it ceases to meet the requirements of the exemption, submit to the Commission a revised tariff based upon the competing ILEC's rates.~~

(d) *Limitation on Use of a Rural ILEC Benchmark.* Notwithstanding paragraph (b) of this section, if a CLEC's competing ILEC is a rural ILEC, the CLEC may benchmark to the competing rural ILEC only if the CLEC terminates 1500 or fewer minutes of use of interstate

Part 61
Discussion Draft - 10/5/11

switched exchange access traffic per working loop per month, determined on the basis of average use per quarter. Any CLEC benchmarking to a competing rural ILEC shall, no later than the 15th day after the end of each quarter, certify to the Commission either:

(i) that the CLEC continues to qualify as a CLEC entitled to benchmark to the competing rural ILEC pursuant to this paragraph based on the CLEC's average switched exchange access minutes of use per working loop per month for the preceding quarter and that the CLEC will retain the documentation necessary to support its certification for at least three (3) years and will provide that documentation to the Commission on demand; or

(ii) that the CLEC is no longer eligible to benchmark to the competing rural ILEC pursuant to this paragraph based on the CLEC's average switched exchange access minutes of use per working loop per month for the preceding quarter and that the CLEC will file a revised tariff within 30 days that prices its interstate switched exchange access services no higher than the rate charged by [a] the Bell Operating Company as defined in 47 U.S.C. § 153(4) serving the CLEC's state, or the largest ILEC in the state, possession or territory if there is no Bell Operating Company (based on number of lines within the state).

(iii) A CLEC required to file a new tariff under subsection (ii) hereof may not benchmark its interstate switched access rates to a rural ILEC for a minimum of one (1) year after the new tariff complying with subsection (ii) has been filed.

(e) ~~(f)~~-If a CLEC provides some portion of the interstate switched exchange access services used to send traffic to or from an end user not served by that CLEC, the rate for the access services provided may not exceed the rate charged by the competing ILEC for the same access services.

Part 64 – Miscellaneous Rules Relating to Common Carriers

Subpart P – ~~Calling Party Telephone Number~~ Call Identification Information; Privacy

§ 64.1600 Definitions.

(a) *Aggregate information.* The term “aggregate information” means collective data that relate to a group or category of services or customers, from which individual customer identities or characteristics have been removed.

(b) *ANI.* The term “ANI” (automatic number identification) refers to the delivery of the calling party's billing number by a local exchange carrier or interconnected telecommunications provider to any interconnecting carrier for billing or routing purposes, and to the subsequent delivery of such number to end users.

(c) The *Carrier Identification Code (CIC)* or *Operating Company Number (OCN)* is a unique numeric code that is assigned to carriers or other entities that access a local exchange carriers' (LEC) network.

(d) ~~(e)~~ *Caller identification information.* The term “caller identification information” means information provided by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or interconnected VoIP service.

(e) ~~(d)~~ *Caller identification service.* The term “caller identification service” means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or interconnected VoIP service.

(f) ~~(e)~~ *Calling party number.* The term “Calling Party Number” (CPN) refers to the delivery of the calling party's subscriber line number or the directory number (or IP equivalent) by a local exchange carrier or interconnected telecommunications provider to any interconnected carrier for a call, regardless of technology used to originate or transport the call contained in the calling party number parameter of the call set up message associated with an interstate call on a Signaling System 7 network.

(g) ~~(f)~~ *Charge number.* The term “charge number” (CN) refers to the delivery of the calling party's billing number in a Signaling System 7 environment by a local exchange carrier or interconnected telecommunications provider to any interconnecting carrier for billing or routing purposes, and to the subsequent delivery of such number to end users.

(h) ~~(g)~~ *Information regarding the origination.* The term “information regarding the origination” means any:

- (1) Telephone number;
- (2) Portion of a telephone number, such as an area code;
- (3) Name;
- (4) Location information;

Part 64
Discussion Draft - 10/5/11

(5) Billing number information, including charge number, ANI, or pseudo-ANI; or

(6) Other information regarding the source or apparent source of a telephone call.

(i) ~~(h)~~ *Interconnected VoIP service*. The term “interconnected VoIP service” has the same meaning given the term “interconnected VoIP service” in 47 CFR 9.3 as it currently exists or may hereafter be amended.

(j) ~~(i)~~ *Privacy indicator*. The term “Privacy Indicator” refers to information, contained in the calling party number parameter of the call set-up message associated with an interstate call on a Signaling System 7 network, that indicates whether the calling party authorizes presentation of the calling party number to the called party.

(k) ~~(j)~~ *Signaling System 7*. The term “Signaling System 7” (SS7) refers to a carrier to carrier out-of-band signalling network used for call routing, billing and management.

§ 64.1601 Delivery requirements and privacy restrictions.

(a) *Delivery*. Except as provided in paragraph (d) of this section, common carriers and interconnected telecommunications providers using Signaling System 7 and offering or subscribing to any service based on Signaling System 7 functionality are required to transmit the calling party number (CPN or IP equivalent) and Carrier Identification Code (CIC or OCN) associated with calls ~~an interstate call~~ to interconnecting carriers regardless of technology or call jurisdiction.

(1)The CPN (or IP equivalent) shall not be replaced or superseded by numbers associated with intermediate switches, platforms, or gateways, nor may carriers and interconnected telecommunications providers populate the Charge Number (CN) parameter (or IP equivalent) in the signal with the number of an intermediate switch, platform, or gateway.

(2) The Carrier Identification Code information identifies the sending carrier or telecommunications provider, and may include carrier (or provider) identification codes (CIC, OCN, or other such identifying information) in order to allow for accurate intercarrier billing.

(3) All intermediate carriers and telecommunications providers are required to transmit all signaling information without alteration to the carriers and telecommunications providers in the call path, except as otherwise provided in Commission rules.

(4) A terminating carrier may charge its highest terminating access rate, regardless of jurisdiction, to any carrier or telecommunications provider that delivers calls for termination lacking the call detail information specified above. An intermediate carrier that is charged the highest access rate of the terminating carrier due to lack of call detail information may, in turn, pass this cost onto the next upstream carrier or provider if it received the call from that upstream carrier or provider without the necessary call detail information.

(b) *Privacy*. Except as provided in paragraph (d) of this section, originating carriers using Signaling System 7 and offering or subscribing to any service based on Signaling System 7 functionality will recognize *67 dialed as the first three digits of a call (or 1167 for rotary or pulse dialing phones) as a caller’s request that the CPN not be passed on ~~an interstate~~ call.

Part 64
Discussion Draft - 10/5/11

Such carriers providing line blocking services will recognize *82 as a caller's request that the CPN be passed on an ~~an interstate~~ call. No common carrier subscribing to or offering any service that delivers CPN may override the privacy indicator associated with an ~~an interstate~~ call. Carriers must arrange their CPN-based services, and billing practices, in such a manner that when a caller requests that the CPN not be passed, a carrier may not reveal that caller's number or name, nor may the carrier use the number or name to allow the called party to contact the calling party. The terminating carrier must act in accordance with the privacy indicator unless the call is made to a called party that subscribes to an ANI or charge number based service and the call is paid for by the called party.

(c) *Charges.* No common carrier subscribing to or offering any service that delivers calling party number may

- (1) Impose on the calling party charges associated with per call blocking of the calling party's telephone number, or
- (2) Impose charges upon connecting carriers for the delivery of the calling party number parameter or its associated privacy indicator.

(d) *Exemptions.* Section 64.1601(a) and (b) shall not apply when:

- (1) A call originates from a payphone.
- (2) A local exchange carrier with Signaling System 7 capability does not have the software to provide *67 or *82 functionalities. Such carriers are prohibited from passing CPN.
- (3) A Private Branch Exchange or Centrex system does not pass end user CPN. Centrex systems that rely on *6 or *8 for a function other than CPN blocking or unblocking, respectively, are also exempt if they employ alternative means of blocking or unblocking.
- (4) CPN delivery -
 - (i) Is used solely in connection with calls within the same limited system, including (but not limited to) a Centrex system, virtual private network, or Private Branch Exchange;
 - (ii) Is used on a public agency's emergency telephone line or in conjunction with 911 emergency services, or on any entity's emergency assistance poison control telephone line; or
 - (iii) Is provided in connection with legally authorized call tracing or trapping procedures specifically requested by a law enforcement agency.

(e) Any person or entity that engages in telemarketing, as defined in section 64.1200(f)(10) must transmit caller identification information.

- (1) For purposes of this paragraph, caller identification information must include either CPN or ANI, and, when available by the telemarketer's carrier, the name of the telemarketer. It shall not be a violation of this paragraph to substitute (for the name and phone number used in, or billed for, making the call) the name of the seller on behalf of which the telemarketing call is placed and the seller's customer service

Part 64
Discussion Draft - 10/5/11

telephone number. The telephone number so provided must permit any individual to make a do-not-call request during regular business hours.

(2) Any person or entity that engages in telemarketing is prohibited from blocking the transmission of caller identification information.

(3) Tax-exempt nonprofit organizations are not required to comply with this paragraph.

* * *

§ 64.1604 Prohibition on transmission of inaccurate or misleading caller identification information.

(a) No person or entity in the United States shall, with the intent to defraud, cause harm, or wrongfully obtain anything of value, knowingly cause, directly or indirectly, any caller identification service to transmit or display misleading or inaccurate caller identification information.

(b) *Exemptions.* Paragraph (a) of this section shall not apply to:

(1) Lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States; or

(2) Activity engaged in pursuant to a court order that specifically authorizes the use of caller identification manipulation.

(c) A person or entity that blocks or seeks to block a caller identification service from transmitting or displaying that person or entity's own caller identification information pursuant to section 64.1601(b) of this part shall not be liable for violating the prohibition in paragraph (a) of this section. This paragraph (c) does not relieve any person or entity that engages in telemarketing, as defined in section 64.1200(f)(10) of this part, of the obligation to transmit caller identification information under section 64.1601(e).

§ 64.1605 Phantom Traffic

(a) The intentional misrouting of traffic to disguise the financially-responsible provider's identity, or alteration of signaling data with intent to disguise the actual origination or termination points of a call (including replacement of data indicating the originating or terminating end points of a call with numbers or codes associated with intermediate switches, platforms or gateways), is deemed to be an unreasonable practice under the Act.

(b) Absent mutual agreement on traffic factors or data on the actual origination point of calls, terminating carriers may use the originating and terminating telephone numbers associated with each call as a default proxy to determine call jurisdiction for intercarrier billing purposes. VoIP calls will be treated as specified in section 69.5(b).

(c) A terminating carrier receiving traffic lacking sufficient call detail to determine proper billing of intercarrier compensation charges may file a complaint with the Commission pursuant to section 208 of the Act, and may request an accelerated hearing of such complaint pursuant to section 1.730 of this Chapter.

Part 69 – Access Charges

Subpart A – General

§ 69.1 Application of access charges.

(a) This part establishes rules ~~for access~~ governing charges for ~~interstate or foreign~~ access services provided by telephone companies ~~on or after January 1, 1984.~~

(b) Except as provided in § 69.1(c), charges for such access service shall be computed, assessed, and collected and revenues from such charges shall be distributed as provided in this part. Access service tariffs shall be filed and supported as provided under Part 61 of this chapter, except as modified herein.

(c) The following provisions of this part shall apply to telephone companies subject to price cap regulation only to the extent that application of such provisions is necessary to develop the nationwide average carrier common line charge, for purposes of reporting pursuant to §§ 43.21 and 43.22 of this chapter, and for computing initial charges for new rate elements: §§ 69.3(f), 69.106(b), 69.106(f), 69.106(g), 69.109(b), 69.110(d), 69.111(c), 69.111(g)(1), 69.111(g)(2), 69.111(g)(3), 69.111(l), 69.112(d), 69.114(b), 69.114(d), 69.125(b)(2), 69.301 through 69.310, and 69.401 through 69.412. The computation of rates pursuant to these provisions by telephone companies subject to price cap regulation shall be governed by the price cap rules set forth in Part 61 of this chapter and other applicable Commission Rules and orders.

§ 69.2 Definitions.

For purposes of the part:

(a) *Access minutes* or *Access minutes of use* is that usage of exchange facilities in interexchange (non-local) ~~interstate or foreign~~ service for the purpose of calculating chargeable usage. On the originating end of an interexchange (non-local) ~~interstate or foreign~~ call, usage is to be measured from the time the originating end user's call is delivered by the telephone company and acknowledged as received by the interexchange carrier's facilities connected with the originating exchange. On the terminating end of an interexchange (non-local) ~~interstate or foreign~~ call, usage is to be measured from the time the call is received by the end user in the terminating exchange. Timing of usage at both the originating and terminating end of an interexchange (non-local) ~~interstate or foreign~~ call shall terminate when the calling or called party disconnects, whichever event is recognized first in the originating and terminating end exchanges as applicable;

(b) *Access service* includes services and facilities provided for the origination or termination of any interexchange (non-local) ~~interstate or foreign~~ telecommunication;

* * *

(m) *End user* means any customer of an interexchange (non-local) ~~interstate or foreign~~ telecommunications service that is not a carrier except that a carrier other than a telephone company shall be deemed to be an "end user" when such carrier uses a telecommunications service for administrative purposes and a person or entity that offers telecommunications

Part 69
Discussion Draft - 10/5/11

services exclusively as a reseller shall be deemed to be an "end user" if all resale transmissions offered by such reseller originate on the premises of such reseller;

* * *

(s) *Interexchange* or the *interexchange category* includes services or facilities provided as an integral part of interexchange (non-local) ~~interstate or foreign~~ telecommunications that is not described as "access service" for purposes of this part;

* * *

(ee) *Public telephone* is a telephone provided by a telephone company through which an end user may originate interexchange (non-local) ~~interstate or foreign~~ telecommunications for which he pays with coins or by credit card, collect or third number billing procedures;

* * *

(xx) *Broadband Line* loop equipment and facilities that support transmission of voice and broadband data, or broadband data only, between the carrier's central office and end user customer premises, at a minimum downstream speed of 256 Kbps.

(yy) *Broadband Service Access Connection Point* means the network equipment located in a telephone company serving wire center where broadband traffic from one or more telephone company serving wire centers is aggregated.

§ 69.3 Filing of access service tariffs.

(a) Except as otherwise provided in paragraphs (g) and (h) of this section herein, a tariff for access service shall be filed with this Commission for a two-year period. Such tariffs shall be filed with a scheduled effective date of July 1. Such tariff filings shall be limited to rate level changes.

(e) A telephone company or group of telephone companies may file a tariff that is not an association tariff. Such a tariff may cross-reference the association tariff for some access elements and include separately computed charges of such company or companies for other elements. Any such tariff must comply with the requirements hereinafter provided:

(1) Such a tariff must cross-reference association charges for the Carrier Common Line and End User Common Line element or elements if such company or companies participate in the pooling of revenues and revenue requirements for such elements;

(2) Such a tariff that cross-references an association charge for any end user access element must cross-reference association charges for all end user access elements;

(3) Such a tariff that cross-references an association charge for any carrier's carrier access element other than the Carrier Common Line element must cross-reference association charges for all carrier's carrier access charges other than the Carrier Common Line element;

Part 69
Discussion Draft - 10/5/11

(4) Except for charges subject to price cap regulation as that term is defined in § 61.3(v) of this chapter, any charge in such a tariff that is not an association charge must be computed to reflect the combined investment and expenses of all companies that participate in such a charge;

(5) A telephone company or companies that elect to file such a tariff for 1984 access charges shall notify AT&T on or before the 40th day after the release of the Commission order adopting this part;

(6) A telephone company or companies that elect to file such a tariff shall notify the association not later than March 1 of the year the tariff becomes effective, if such company or companies did not file such a tariff in the preceding biennial period or cross-reference association charges in such preceding period that will be cross-referenced in the new tariff. A telephone company or companies that elect to file such a tariff not in the biennial period shall file its tariff to become effective July 1 for a period of one year. Thereafter, such telephone company or companies must file its tariff pursuant to paragraphs (f)(1) or (f)(2) of this section.

(7) Such a tariff shall not contain charges for any access elements that are disaggregated or deaveraged within a study area that is used for purposes of jurisdictional separations, except as otherwise provided in this chapter.

(8) Such a tariff shall not contain charges included in the billing and collection category.

(9) A telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff pursuant to paragraph (a) of this section shall notify the association not later than March 1 of the year the tariff becomes effective that it will no longer participate in the association tariff. A telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff for one of its study areas shall file its own Carrier Common Line tariff(s) for all of its study areas.

(10) Any data supporting a tariff that is not an association tariff shall be consistent with any data that the filing carrier submitted to the association.

(11) Any changes in Association common line tariff participation and Long Term and Transitional Support resulting from the merger or acquisition of telephone properties are to be made effective on the next annual access tariff filing effective date following consummation of the merger or acquisition transaction, in accordance with the provisions of § 69.3(e)(9).

(k) Telephone companies offering intrastate switched access services shall file tariff revisions or take such other action as may be necessary to conform intrastate switched access rate structures, elements, and revenue-affecting terms and conditions to the rate structures, elements, and revenue affecting terms and conditions prescribed in this Chapter effective July 1, 2012, using the following criteria:

(1) In those cases where intrastate rates are different for originating and terminating traffic, separate rates for originating and terminating intrastate traffic can be maintained

Part 69
Discussion Draft - 10/5/11

in an intrastate tariff even though the corresponding interstate tariff provisions and rates make no such distinction.

(2) Intrastate rate elements with different titles but relating to the same functions described in interstate rate elements may retain their current titles.

(3) Intrastate carrier common line rates, if any, shall be combined with the intrastate Local Switching rate element or its functional equivalent.

(4) All intrastate rate structure changes made pursuant to this section shall be targeted to produce the same aggregate intrastate revenues as produced under intrastate rate structures.

§ 69.4 § 69.4 Charges to be filed.

(a) The end user charges for access service ~~filed with this Commission~~ shall include charges for the End User Common Line element, and for line port costs in excess of basic, analog service.

(b) Except as provided in paragraphs (c), (e), and (h) of this section, and in § 69.118, the carrier's carrier charges for access service ~~filed with this Commission~~ shall include charges for each of the following elements:

(1) [Reserved]

(2) Carrier common line, provided that after June 30, 2003, non-price cap local exchange carriers may not assess a carrier common line charge;

(3) Local switching;

(4) Information;

(5) Tandem-switched transport;

(6) Direct-trunked transport;

(7) Special access; and

(8) Line information database;

(9) Entrance facilities.

(c) [Reserved]

(d) Recovery of Contributions to the Universal Service Support Mechanisms by Incumbent Local Exchange Carriers.

(1) [Reserved]

(2) (i) Local exchange carriers may recover their contributions to the universal service support mechanisms only through explicit, interstate, end-user charges assessed pursuant to either § 69.131 or § 69.158 that are equitable and nondiscriminatory.

Part 69
Discussion Draft - 10/5/11

(ii) Local exchange carriers may not recover any of their contributions to the universal service support mechanisms through access charges imposed on interexchange carriers.

(e) The carrier's carrier charges for access service ~~filed with this Commission~~ assessed by the telephone companies specified in § 64.1401(a) of this chapter shall include an element for connection charges for expanded interconnection. The carrier's carrier charges for access service ~~filed with this Commission~~ assessed by the telephone companies not specified in §64.1401(a) of this chapter may include an element for connection charges for expanded interconnection.

(f) [Reserved]

(g) Local exchange carriers may establish appropriate rate elements for a new service, within the meaning of § 61.3(x) of this chapter, in any tariff filing.

(h) In addition to the charges specified in paragraph (b) of this section, the carrier's carrier charges for access service ~~filed with this Commission~~ assessed by price cap local exchange carriers shall include charges for each of the following elements:

- (1) Presubscribed interexchange carrier;
- (2) Per-minute residual interconnection;
- (3) Dedicated local switching trunk port;
- (4) Shared local switching trunk port;
- (5) Dedicated tandem switching trunk port;
- (6) [Reserved]
- (7) Multiplexers associated with tandem switching.

(i) Paragraphs (b) and (h) of this section are not applicable to a price cap local exchange carrier to the extent that it has been granted the pricing flexibility in §69.727(b)(1).

(j) In addition to the charges specified in paragraph (b) of this section, the carrier's carrier charges ~~for access service filed with the Commission~~ assessed by non-price cap local exchange carriers may include charges for each of the following elements:

- (1) Dedicated local switching trunk port;
- (2) Shared local switching trunk port;
- (3) Dedicated tandem switching trunk port;
- (4) Multiplexers associated with tandem switching;
- (5) DS1/voice grade multiplexers associated with analog switches; and
- (6) Per-message call setup.

Part 69
Discussion Draft - 10/5/11

§ 69.5 Persons to be assessed.

- (a) End user charges shall be computed and assessed upon public end users, and upon providers of public telephones, as defined in this subpart, and as provided in subpart B of this part.
- (b) Carrier's carrier charges shall be computed and assessed upon all ~~interexchange~~ carriers and other interconnected telecommunications providers that use local exchange switching facilities for the provision of interexchange (non-local) interstate or foreign telecommunications services. Interexchange calls that originate or terminate in IP format shall be rated as interstate calls for purposes of assessing switched access charges regardless of whether the origination and termination points of such calls are located in the same state.
- (c) Special access surcharges shall be assessed upon users of exchange facilities that interconnect these facilities with means of ~~interstate or foreign~~ interexchange (non-local) telecommunications to the extent that carrier's carrier charges are not assessed upon such interconnected usage. As an interim measure pending the development of techniques accurately to measure such interconnected use and to assess such charges on a reasonable and non-discriminatory basis, telephone companies shall assess special access surcharges upon the closed ends of private line services and WATS services pursuant to the provisions of § 69.115 of this part.
- (d) [Reserved]

Subpart B – Computation of Charges

§ 69.101 General.

Except as provided in § 69.1 and subpart C of this part, charges for each access element shall be computed and assessed as provided in this subpart including the limitations described in §69.132.

§ 69.104 End user common line for non-price cap incumbent local exchange carriers.

- (a) This section is applicable only to incumbent local exchange carriers that are not subject to price cap regulation as that term is defined in § 61.3(ee) of this chapter. An interstate charge that is expressed in dollars and cents per line per month shall be assessed upon end users that subscribe to local exchange telephone service or Centrex service to the extent they do not pay carrier common line charges. A charge that is expressed in dollars and cents per line per month shall be assessed upon providers of public telephones. Such charges shall be assessed for each line between the premises of an end user, or public telephone location, and a Class 5 office that is or may be used for local exchange service transmissions.

* * *

(s) Additional End User Common Line Charge. Carriers subject to this section whose monthly charges for local residential telephone exchange service (including charges associated with basic residential local exchange telephone service, interstate End User Common Line charges, any comparable intrastate end user common line charges, mandatory Extended Area Service charges, and any state universal service fund or comparable fund per-line amounts) are less than twenty-five dollars per month (herein, the “Local Residential Service Benchmark”) may apply an Additional End User Common Line Charge or portion thereof according to the following schedule such that the amount specified is the total Additional End User Common Line Charge that may be assessed or imputed for that year:

Part 69
Discussion Draft - 10/5/11

(1) July 1, 2012 to June 30, 2013: \$0.75

(2) July 1, 2013 to June 30, 2014: \$1.50

(3) July 1, 2014 to June 30, 2015: \$2.25

(4) July 1, 2015 to June 30, 2016: \$3.00

(5) July 1, 2016 to June 30, 2017: \$3.75

(6) July 1, 2017 and thereafter: \$4.50

Provided, however, such Additional End User Common Line Charges shall not apply to the extent they would, if billed, cause a carrier's charges for basic residential local exchange telephone service as described above to exceed the Local Residential Service Benchmark.

* * *

§ 69.106 Local switching.

(a) Except as provided in § 69.118, charges that are expressed in dollars and cents per access minute of use shall be assessed by local exchange carriers that are not subject to price cap regulation upon all ~~interexchange~~ carriers and other interconnected telecommunications providers that use local exchange switching facilities for the provision of interexchange (non-local) ~~interstate or foreign~~ telecommunications services.

§ 69.114 Special access.

(a) (i) Appropriate subelements shall be established for the use of equipment or facilities that are assigned to the Special Access element for purposes of apportioning net investment, or that are equivalent to such equipment or facilities for companies subject to price cap regulation as that term is defined in § 61.3(x) of this chapter.

(ii) Effective July 1, 2012 rate of return carriers will establish subelements within the Special Access category specifying charges for Middle Mile and Second Mile broadband access services.

(b) Charges for all subelements shall be designed to produce total annual revenue that is equal to the projected annual revenue requirement for the Special Access element.

(c) Charges for an individual element shall be assessed upon all interexchange carriers that use the equipment or facilities that are included within such subelement.

(d) Charges for individual subelements shall be designed to reflect cost differences among subelements in a manner that complies with applicable Commission rules or decisions.

Part 69
Discussion Draft - 10/5/11

§ 69.132 Phase-Down of Intrastate and Interstate Access Rates

- (1) Effective July 1, 2012, each local exchange carrier's interstate originating and terminating switched access rates shall be capped at rate levels in effect as of June 30, 2012.
- (2) Each local exchange carrier shall file tariffs or take such other action as may be necessary to reduce, effective July 1, 2012 its combined intrastate terminating switched access service rates by one-half the difference, if any, between its intrastate terminating switched access service rates and its interstate terminating switched access rates specified in tariffs filed pursuant to this Chapter.
- (3) Each local exchange carrier shall file tariffs or take such other action as may be necessary to reduce, effective July 1, 2013 its combined intrastate terminating switched access service rates to interstate levels specified in tariffs filed pursuant to this Chapter.
- (4) Each local exchange carrier shall annually file tariffs or take such other action as may be necessary to reduce, beginning July 1, 2014 and continuing until July 1, 2017 its combined rates for intrastate and interstate terminating local switching and information access services to \$0.005 per minute of use, such reductions to be implemented in equal annual increments.
- (5) Each local exchange carrier shall annually file tariffs or take such other action as may be necessary to reduce, beginning July 1, 2017 and continuing until July 1, 2020 its combined rates for intrastate and interstate terminating local switching and information access services to \$0.0007 per minute of use, such reductions to be implemented in equal annual increments.
- (6) The rate reductions specified in this section shall be imposed only to the extent that high-cost universal service funding as specified in Part 54 of this Chapter including Access Restructure Support is sufficient to offset reductions in revenue resulting from such reductions. In the event the Administrator submits a report pursuant to subsection 54.702(h) of this Chapter indicating funding will not be sufficient for the upcoming period, the Commission shall issue a public notice on or before June 1 of each year suspending planned rate reductions for July 1 of that year. Absent positive action by the Commission to suspend rate reductions by June 1 in a particular year, carriers reducing rates on July 1 of that year shall be entitled to receive full High Cost universal service funding pursuant to Part 54 of this Chapter.

Subpart D – Apportionment of Net Investment

§ 69.304 Subscriber line cable and wire facilities.

- (a) Investment in local exchange subscriber lines shall be assigned to the Common Line element.
- (b) Investment in interstate and foreign private lines and interstate WATS access lines shall be assigned to the Special access element.
- (c) Investment associated with data-only Broadband Lines shall be assigned to the Second Mile subelement.

§ 69.305 Carrier cable and wire facilities (C&WF).

Part 69
Discussion Draft - 10/5/11

(a) Carrier C&WF that is not used for “origination” or “termination” as defined in §69.2(bb) and §69.2(cc) shall be assigned to the interexchange category.

(b) Carrier C&WF, other than WATS access lines, not assigned pursuant to paragraph (a), (c), or (e) of this section that is used for interexchange services that use switching facilities for origination and termination that are also used for local exchange telephone service shall be apportioned to the local Transport elements.

(c) Carrier C&WF that is used to provide transmission between the local exchange carrier’s signalling transfer point and the database shall be assigned to the Line Information Database sub-element at §69.120(a).

(d) All Carrier C&WF that is not apportioned pursuant to paragraphs (a), (b), (c), ~~and~~ (e), and (f) of this section shall be assigned to the Special Access element.

(e) Carrier C&WF that is used to provide transmission between the local exchange carrier’s signaling transfer point and the local switch shall be assigned to the local switching category.

(f) Carrier C&WF that is used to provide transmission between the Broadband Access Service Connection Point and the Internet backbone connection point shall be assigned to the Middle Mile subelement.

(g) Carrier C&WF that is used to provide transmission between a broadband customer’s serving wire center and the Broadband Access Service Connection Point shall be assigned to the Second Mile subelement.

* * *

Subpart E – Apportionment of Expenses

§ 69.401 Direct expenses.

* * *

(e)(1) Until July 1, 2012, Plant Non Specific Operations Expenses in Account 6540 shall be assigned to the interexchange category.

(e)(2) Beginning July 1, 2012, Plant Non Specific Operations Expenses related to the Middle Mile in Account 6540 shall be assigned to the Middle Mile subelement. All other Plant Non Specific Operations Expenses in Account 6540 shall be assigned to the interexchange category.

* * *

§ 69.413 Universal service fund expenses.

Expenses allocated to the interstate jurisdiction pursuant to §§ 36.631 and 36.641 shall be assigned to the Carrier Common Line Element until March 31, 1989. Beginning April 1, 1989, such expenses shall be assigned to the Universal Service Fund Element. Beginning July 1, 2012 expenses

Part 69
Discussion Draft - 10/5/11

allocated to the interstate jurisdiction pursuant to Part 36.801 shall be assigned to the Universal Service Fund Element.

* * *